

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

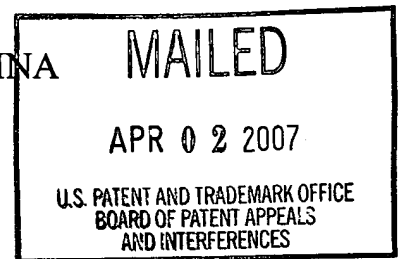
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*Ex parte* JEFFREY M. STEFAN and JASMIN JIJINA

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Application 10/077,013  
Technology Center 2600

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This Image File Wrapper (IFW) application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on January 10, 2007. A review has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below:

Appellants filed an Appeal Brief which was received by the USPTO on May 16, 2006. The content furnished under the heading "SUMMARY OF CLAIMED SUBJECT MATTER" is not commensurate in scope with 37 C.F.R. § 41.37(c)(1)(v) because there is no descriptive support for the subject matter defined in each of the independent and dependent claims on appeal. Correction is required.

Application 10/077,013


MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on May 16, 2006, defective;
- 2) notify appellants to file a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) and;
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
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Application 10/077,013

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PJN/hh